

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-1362-2013(O&M)

Date of decision:-25.1.2023

Sunder Lal

...Appellant

Versus

Siri Chand through his LRs Bala Devi through LRs Babli and others

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sandeep Singh Jattan, Advocate and
Mr.Devender Arya, Advocate for the appellant.

Mr.Mukesh Yadav, Advocate
for the respondent.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that Siri Chand had brought a suit for recovery of Rs.86,400/- with interest @ 24% per annum against the defendant Sunder Lal, on the averments that the defendant had raised two loans of Rs.30,000/- each from him and had executed two separate pronotes and receipts in his favour undertaking to return the loan amount with interest as and when demanded by the plaintiff, however, he failed to pay any amount to the plaintiff towards principal or interest despite repeated demands and service of registered notice got served by plaintiff upon him, giving rise to a cause of action to the plaintiff to bring the suit in question.

2. On getting notice, the defendant appeared and filed a written statement inter alia admitting raising of loans and executing two pronotes and receipts in the sum of Rs.30,000/- each in favour of the plaintiff on 3.10.2000, however, he came up with a version that he has since returned a substantial sum to the plaintiff i.e. Rs.12,000/- on 20.11.2000 and Rs.45,000/- on 14.12.2000; on both occasions, the plaintiff had put his signatures in English in bahi of defendant and further on the asking of the plaintiff, defendant had given Rs.500/- to one Roopchand resident of Chitlang on 14.12.2000, thereby paying a total sum of Rs.57,500/-; the balance outstanding amount in that way, came to Rs.2,500/- along with interest, which defendant was always ready and willing to pay but the plaintiff did not accept the same. In that way, the plaintiff was not entitled to recover a sum of Rs.86,400/- from the defendant.

3. Issues on merits were framed and the parties were afforded opportunities to lead evidence in support of their respective claims.

4. After hearing the learned counsel for the parties, the trial Court of Civil Judge(Jr.Divn.), Mohindergarh vide judgment and decree dated 10.8.2009 decreed the suit of the plaintiff partly with costs directing the defendant to pay Rs.60,000/- of principal amount along with interest @ 12% per annum from the date of execution of pronote i.e. 3.10.2000 till the institution of the suit with further interest at the rate of 6% per annum from the date of institution of the suit till the actual recovery of the decretal amount i.e. Rs.60,000/-, interest till filing of the suit.

5. Feeling aggrieved by the said judgment and decree, the defendant had filed an appeal in the Court of District Judge, Narnaul,

which were assigned to Additional District Judge, Narnaul, who vide judgment and decree dated 15.12.2012 dismissed the appeal upholding the judgment and decree passed by the trial Court.

6. Being dissatisfied with the judgments and decrees passed by the Courts below, the defendant had filed the present regular second appeal before this Court, notice of which was given to respondent, who put in appearance through counsel.

7. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the present appeal.

8. In the instant case appellant/defendant had admitted borrowing a sum of Rs.60,000/- from the plaintiff on 3.10.2000 and executing pronotes and receipts in his favour, though coming up with a version that he has returned a sum of Rs.57,500/- to him leaving a balance of Rs.2,500/- only. In that way, the onus shifted upon the defendant to prove his case that he has in fact returned that amount to the plaintiff. The defendant had examined a Handwriting Expert, who after examining the signatures purportedly appended by the plaintiff in the bahi of the defendant had given his report that the signatures were those of the plaintiff. He has further examined Ashok Kumar as DW1, who stated that Rs.12,000/- were returned by the defendant to the plaintiff on 20.11.2000 besides examining DW2 Dalip Singh, who had deposed that Rs.45,000/- were returned by the defendant to the plaintiff on 14.12.2000. But the trial Court by giving proper reasoning has not found their statements to be worthy of reliance. It may be mentioned here that the plaintiff had also

examined a Handwriting Expert, who had opined that signatures in the bahi of defendant purportedly appended by the plaintiff did not match with his standard signatures. The trial Court has rightly observed that science of comparison of handwriting is not a perfect one and the evidence of expert is in the form of opinion only. Furthermore, with regard to depositions of DW1 Ashok Kumar and DW2 Dalip Singh, it was found that their signatures were not there in the bahi, which might have shown their presence at the spot at the relevant time and furthermore both of them are closely related with the defendant inasmuch as DW2 Dalip Singh is son of real uncle of defendant, whereas DW1 Ashok Kumar is closely related to the defendant, as such they had a reason to depose falsely in favour of the defendant against the plaintiff. The version of the defendant was disbelieved by the trial Court and I do not find any fault with the same. The First Appellate Court has also given a detailed well reasoned judgment affirming the judgment and decree passed by the trial Court. The Defendant having failed to prove by bringing enough cogent and convincing evidence that he has returned any amount to the plaintiff towards principal or interest, he is liable to pay the principal amount with interest as awarded by the trial Court and affirmed by the First Appellate Court.

9. The judgments and decrees passed by the Courts below are quite detailed well reasoned, based on proper appraisal of evidence and correct interpretation of law, which do not call for any interference.
10. No substantial question of law arises in this appeal.
11. Finding no merit in the appeal, the same stands dismissed.

Since the main appeal is dismissed, the miscellaneous application(s), if any stands disposed of accordingly.

25.1.2023

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No